

## Message Text

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ORIGIN STR-04

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01  
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07  
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05  
CIEP-01 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02  
OMB-01 FEA-01 /101 R

DRAFTED BY STR:JGREENWALD:JH  
APPROVED BY EB/OT/STA:JSSPIRO  
STR:AWOLFF  
EB/OT/STA:MC  
L/EB:CROH  
EUR/RPE:RBRESLER  
TREAS:MGADBAW  
EUR/CAN:DBLAKEMORE (SUBS)  
-----090120Z 103006 /67

P R 082335Z FEB 77  
FM SECSTATE WASHDC  
TO USMISSION GENEVA PRIORITY  
AMEMBASSY OTTAWA PRIORITY  
USMISSION EC BRUSSELS PRIORITY  
INFO USDEL MTN GENEVA

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E.O. 11652:N/A

TAGS: ETRD, GATT

SUBJECT: FOIA REQUEST FOR MAY 1976 U.S. SUBMISSION ON DISC

REF: A) STATE 21627 B) GENEVA 00673 C) OTTAWA 00352  
D) EC BRUSSELS 00673

1. TREASURY DETERMINATION (REF. A) THAT U.S. SUBMISSION  
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ON DISC MUST BE RELEASED UNDER FOIA REMAINS UNCHANGED  
ALTHOUGH DATE OF RELEASE HAS BEEN POSTPONED UNTIL FEB. 13.  
DETERMINATION BASED ON APPLICATION OF FOIA TO THIS CASE.

2. REPRESENTATIONS SHOULD BE MADE TO CANADIAN MISSION TO  
THE GATT, APPROPRIATE OFFICIALS IN OTTAWA, AND EC COMMIS-

SION (IF MISSION CONSIDERS APPROPRIATE) AND GATT SECRETARIAT TO INDICATE THAT IN FUTURE CASES U.S. WILL TAKE FULLY INTO ACCOUNT CONCERNS OF OTHER DELEGATIONS AND IMPACT ON GATT DISPUTE SETTLEMENT PROCESS IN DETERMINING LEGAL BASIS FOR WITHHOLDING U.S. SUBMISSIONS TO PANELS FROM RELEASE UNDER FOIA. YOU MAY EMPHASIZE THAT U.S. REMAINS VERY MUCH INTERESTED IN ASSURING THAT GATT DISPUTE SETTLEMENT MACHINERY OPERATES EFFECTIVELY.

3. IN DISCUSSING ISSUE, YOU SHOULD INDICATE THAT IN ABSENCE OF ANY GUIDANCE FROM THE GATT OR THE DISC PANELS WITH RESPECT TO CONFIDENTIALITY OF PANEL SUBMISSION, U.S. RELEASED LAST SPRING U.S. BRIEF AGAINST TAX PRACTICES OF BELGIUM, FRANCE, AND THE NETHERLANDS IN RESPONSE TO FOIA REQUEST. U.S. BELIEVED THEN, AND STILL BELIEVES, THAT THERE WAS NOTHING INHERENTLY CONFIDENTIAL IN THE BRIEF.

4. SUBSEQUENTLY, PANELS ISSUED SPECIFIC INSTRUCTIONS ON RELEASE OF MATERIALS WHILE PANELS WERE IN SESSION. SINCE EXPIRATION OF PANELS AND CONSIDERING ALL CIRCUMSTANCES OF CASE, U.S. BELIEVES COURTS WOULD NOT SUSTAIN U.S. ATTEMPT TO WITHHOLD BRIEF.

5. SUCH RELEASE DOES NOT, HOWEVER, CONSTITUTE A PRECEDENT FOR FUTURE PANEL PROCEDURES. WE ASSUME THAT, SINCE ATTENTION OF CPS HAS NOW BEEN FOCUSED ON THIS ISSUE, CPS AND/OR PANELS WILL AGREE IN ADVANCE OF EACH FUTURE PANEL PROCEEDING ON GROUND RULES REGARDING CONFIDENTIALITY LIMITED OFFICIAL USE

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OF SUBMISSIONS. SUCH AGREEMENT BACKED UP BY CLEAR ADVANCE PANEL INSTRUCTIONS CAN, IN APPROPRIATE CASES, CONSTITUTE LEGAL GROUNDS FOR U.S. SECURITY CLASSIFICATION OF SUBMISSIONS. IN THIS REGARD, USG WOULD BE PREPARED TO DISCUSS ISSUE AT OUTSET OF ANY PANEL. VANCE

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NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** INFORMATION EXCHANGE, DOCUMENTS, TARIFF LIBERALIZATION  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 08-Feb-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
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**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977STATE028605  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** JGREENWALD:JH  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D770045-0639  
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**Legacy Key:** link1977/newtext/t19770261/aaaacbws.tel  
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**Litigation History:**  
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**Office:** ORIGIN STR  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 77 STATE 21627, 77 GENEVA 673, 77 OTTAWA 352  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
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**Review Date:** 24-Nov-2004 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
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**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 3375725  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** FOIA REQUEST FOR MAY 1976 U.S. SUBMISSION ON DISC  
**TAGS:** ETRD, US, CA, GATT  
**To:** GENEVA OTTAWA MULTIPLE  
**Type:** TE  
**vdkgvwkey:** odb://SAS/SAS.dbo.SAS\_Docs/06acacc9-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009